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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,014	03/19/2004	Kazuhiko Hayashi	0124/0025	8193
21395	7590	01/25/2008	EXAMINER	
LOUIS WOO			SAJOUS, WESNER	
LAW OFFICE OF LOUIS WOO			ART UNIT	
717 NORTH FAYETTE STREET			PAPER NUMBER	
ALEXANDRIA, VA 22314			2628	
			MAIL DATE	DELIVERY MODE
			01/25/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/804,014	Applicant(s) HAYASHI ET AL.	
	Examiner Sajous Wesner	Art Unit 2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-9 is/are allowed.
- 6) ☒ Claim(s) 1-5, 10 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/07, 5/30/07 & 6/4/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a first office action on the merit. Claims 1-11 are presented for examination.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-5 are rejected under 35 U.S.C. 101 because the claim is directed to computer program nonfunctional descriptive material.

Data structures not claimed as embodied in a program are descriptive material per se and are not statutory because they are neither physical "things" nor statutory processes. See, e.g. Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 and merely claiming nonfunctional descriptive material embodied in a program does not make it statutory. See MPEP 2106.IV.B.1.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Ueno et al. (4777537).

Considering claim 5, Ueno discloses deciding whether or not an audio file containing data representative of audio information is selected as an object to be reproduced (interpreted as the selection of audio tract signals to be reproduced and playback (see col. 1, lines 57-61 and col. 10, lines 25-35); accessing an image file in a file group in which the audio file is included when it is decided that the audio file is selected as an object to be reproduced, the image file containing data representative of animation pictures; and reproducing the accessed image file (see col. 1, line 63 to col. 2, line 24; col. 5, lines 3-22; col. 9, lines 15-32; and col. 10, lines 25-35, wherein the cited animation pictures is construed to be the same as the video signals for the both the animation pictures and the video signals encompasses motion signal or video).

Claims 10 and 11 contains features that are analogous to the limitations recited in claim 5. They are, therefore, rejected under the same rationale set forth above for claim 5.

Allowable Subject Matter

5. Claims 6-9 are allowed.

The following is an examiner's statement of reasons for allowance: Ainsworth (US 20040122539) discloses allowing a user to determine image use criterion that will be used by a program to select images for inclusion in a show; and the software/program applies the user-determined audio use criterion to selected audio file

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collection and creates an audio folder of images that are qualified for inclusion in the multimedia show, by analyzing the audio file (see paragraphs 61-65).

Dunbar (US 20050071744) discloses an image file container that contains more than two multimedia streams-a first one includes first image data; the second one includes arbitrary data, related to the first multimedia stream and/or to different representation of the same image, and/or to audio, video, graphics and text. The arbitrary data can correspond to second image data that is related to image data in the first multimedia stream. The second image can be combined with the first image data to generate a new image (see paragraphs 5 and 22). However, neither Ainsworth nor Dunbar discloses cutting a portion, which extends in a first area, from a source picture to generate a start picture; cutting a portion, which extends in a second area, from the source picture to generate an end picture; designating at least one third area in the source picture, the third area extending between the first and second areas; cutting a portion, which extends in the third area, from the source picture to generate an intermediate picture; generating an image file which contains data representative of animation pictures including the start picture, the intermediate picture, and the end picture; relating the image file with an audio file containing data representative of audio information; and generating a file group including the image file and the audio file (as recited in claims 6-9).

Claims 1-4 would be allowable for reasons similar to claims 6-9, as indicated above; if amended to overcome the 101 rejections set forth above.

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Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wood et al. (US 2005006288) discloses a method for grouping files of similar contents.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sajous Wesner whose telephone number is 571-272-7791. The examiner can normally be reached on M-F 9:15-6:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi can be reached on 571-272-7664. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Sajous Wesner
Primary Examiner
Art Unit 2628

WS

1/19/08